

**U.S. Department of Labor**

Office of Administrative Law Judges  
O'Neill Federal Building - Room 411  
10 Causeway Street  
Boston, MA 02222

(617) 223-9355  
(617) 223-4254 (FAX)



**Issue Date: 11 January 2006**

CASE NO.: 2005-DBA-00010

In the Matter of:

Disputes concerning the payment  
of prevailing wage rates and  
proper classification by:

**EMRG, INC.,**  
General Contractor

With respect to laborers and mechanics  
employed by the contractor under contracts  
02-EE-058 for PINE OAKS VILLAGE III, Harwich; and  
for work on the BROCKTON FAMILY LIFE CENTER;  
and for work on BOSTON HOPE, Boston

*Appearances:*

John S. Casler, Deputy Regional Solicitor (Howard M. Radzely,  
Solicitor of Labor; Frank V. McDermott, Jr., Regional Solicitor),  
Boston, Massachusetts, for the Administrator, Wage and Hour Division,  
Employment Standards Administration, U.S. Department of Labor

John M. Keogh, Boston, Massachusetts,  
for the Respondent General Contractor

*Before:* Daniel F. Sutton, Administrative Law Judge

**DECISION AND ORDER APPROVING CONSENT FINDINGS**

In the above matter, which arises under the Davis-Bacon Act (DBA), as amended, 40 U.S.C. 276a *et seq.*, and the regulations at 29 C.F.R. Part 5, the parties have filed the following Consent Findings:

(1) There is now pending before the Office of Administrative Law Judges, U.S. Department of Labor, a proceeding under 29 CFR Part 5, §5.11(b) to resolve a dispute concerning the payment of prevailing wages and overtime on the contracts identified in the caption hereof.

(2) It is the desire of the Administrator and the Respondent to dispense with such proceeding and to dispose of all issues raised therein, including any and all legal, equitable or other defenses the Respondent may have, by payment by the Respondent of \$23,000 (plus any accrued interest, but only if and to the extent that interest is being earned on the withheld funds) in settlement of all wage claims made by the Administrator on behalf of employees who worked on the aforesaid projects. The employees and wage amounts are set forth on Exhibit 1, attached hereto. Payment shall be made from amounts presently withheld by the contracting agencies and the Respondent hereby authorizes said agency or agencies to release to the Regional Administrator, Employment Standards Administration, U. S. Department of Labor, Philadelphia, Pennsylvania the above sum. The Regional Administrator shall distribute the back wages to the employees listed on Exhibit I or their estates if necessary and any sum which within three years from the date of this agreement have not been distributed to the employees, or their personal representatives, because of the inability to locate the proper persons or because of such person's refusal to accept such sum, shall be deposited with the Treasurer of the United States.

(3) This settlement is intended by the Administrator and the Respondent to be a final resolution of this matter and each party hereby agrees to bear its own fees and expenses incurred by such party in connection with any stage of this proceeding.

(4) The Administrator and Respondent further agree that:

(A) any order entered in accordance with these Consent Findings shall, pursuant to 29 C.F.R. Part 6, have the same force and effect as an Order made after full hearing.

(B) the entire record upon which any final Order may be based shall, pursuant to 29 C.F.R. Part 6, consist of the Complaint and this agreement.

(C) any Order herein concerning debarment under the Davis Bacon Act shall constitute a recommendation to the Comptroller General. Part 6.

(D) all further procedural rights provided by 29 C.F.R. Part 6 and any rights to contest the validity of this agreement and any order issued pursuant thereto are hereby waived. Part 6.<sup>1</sup>

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<sup>1</sup> The paragraphs in the Consent Findings have been renumbered as the original document executed by the parties skipped paragraph (3).

Upon consideration of the record, the Consent Findings are **APPROVED** in full, and they shall constitute my findings of fact and conclusions of law and shall constitute full, final and complete adjudication of this proceeding.

**SO ORDERED.**

A

Daniel F. Sutton  
Administrative Law Judge

Boston, Massachusetts

**NOTICE OF APPEAL RIGHTS:** To appeal, you must file a Petition for Review (“Petition”) that is received by the Administrative Review Board (“Board”) within forty (40) days of the date of issuance of the administrative law judge’s decision. *See* 29 C.F.R. § 6.34. The Board’s address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. The Petition must refer to the specific findings of fact, conclusions of law, or order at issue. *See* 29 C.F.R. § 6.34. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

When a Petition is timely filed with the Board, the administrative law judge’s decision is inoperative until the Board either (1) declines to review the administrative law judge’s decision, or (2) issues an order affirming the decision. *See* 29 C.F.R. § 6.33(b)(1).

At the time you file the Petition with the Board, you must serve it on the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW,